



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0002; Notice 2]

Dorel Juvenile Group, Denial of
Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Denial of Petition

SUMMARY: Dorel Juvenile Group, Inc. (DJG) has determined that certain child restraint systems manufactured between July 20, 2010 and May 18, 2011 do not fully comply with paragraph S5.5.2(1) of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems* (49 CFR 571.213). DJG has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*, dated July 19, 2011.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), DJG has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day comment period, on January 19, 2012 in the Federal Register (77 FR 2776). NHTSA received one comment from Consumers Union (CU).

To view the petition, the comment, and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2012-0002."

CONTACT INFORMATION: For further information on this decision, contact Mr. Zachary R. Fraser, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5754, facsimile (202) 366-7002.

EQUIPMENT INVOLVED: Affected are approximately 89,527 of the following models of DJG child restraint systems that were manufactured between July 20, 2010 and May 18, 2011:

- 22187ANL Alpha Omega Elite
- 22187REM Alpha Omega Elite
- 22187REMA Alpha Omega Elite
- 22187SAR Alpha Omega Elite
- 22187SARA Alpha Omega Elite
- 22465FSM Alpha Omega Elite
- 22790CGT Deluxe 3 in 1
- CC033BMT Alpha Omega Elite
- CC043ANK Alpha Omega Elite
- CC043ANL Alpha Omega Elite
- CC043AQS Alpha Omega Elite
- CC046AAI Deluxe 3 in 1
- CC046AAU Deluxe 3 in 1
- CC046CTA Deluxe 3 in 1
- CC046SNW Deluxe 3 in 1
- CC046WPR Deluxe 3 in 1
- CC050AJH Complete Air LX
- CC050ANY Complete Air LX
- CC050ANZ Complete Air LX
- CC050AOQ Complete Air LX
- CC051AIR Complete Air SE

SUMMARY OF DJG'S ANALYSES: DJG described the noncompliance as follows:

The child restraint systems at issue utilize a permanently attached base which is equipped with color coordinated Ease of Use labels including base labels depicting the rear-facing mode instructions. Certain restraints were equipped with base labels positioned on the incorrect side of the base. Although nearly all the information is correct, the small indicator arrows do not line up with the rear-facing vehicle and LATCH belt path for the rear-facing mode. As noted in the Noncompliance Information Report, this voluntarily supplied information caused the installation diagram required by FMVSS No. 213 S5.5.2(1) to be inaccurate.

A noncompliance exists when the base labels are installed incorrectly and the indicator arrows do not point to the rear-facing vehicle belt/LATCH routing path. In this case, the arrows are actually pointing to the area below the forward-facing vehicle belt/LATCH path routing but could be construed as pointing to the forward-facing routing path.

DJG states that the subject child restraints contain the label information required by S5.5.2(1). DJG asserts that the voluntarily supplied information consisting of pointing arrows caused the installation diagrams required by FMVSS No. 213 S5.5.2(1) to be inaccurate when the labels containing the

diagrams were installed on the incorrect side of the child restraint's base. NHTSA agrees with DJG that the subject child restraints contain the proper labels with the required installation diagrams. However, DJG voluntarily provided additional information on the labels intended to assist installation by adding pointing arrows to the belt path appropriate for that configuration.

NHTSA believes that the diagrams provided by DJG are compliant with S5.5.2(1) but the pointing arrows are misplaced due to the incorrect installation of the labels creating confusing and misleading information that is noncompliant with S5.5 of FMVSS No. 213. The incorrect direction of the pointing arrows lends to possible confusion that the belts should be routed through the forward-facing routing path rather than through the correct routing path.

DJG contends that the likelihood is low that a consumer would interpret the arrows as indicating the proper rear-facing path routing through the forward-facing path routing. It asserts that the proper rear-facing vehicle belt/LATCH routing path is shown clearly in the five diagrams on the two base labels.

DJG also argues that instructions included with the subject child restraint systems also correctly depict the rear-facing vehicle belt/LATCH routing path numerous times.

DJG noted that it has received only one user complaint related to this issue. DJG also included the results of a survey conducted to illustrate any effects the noncompliance may have on seat installation.

DJG contends that the technical noncompliance issue reported in the June 23, 2011, Noncompliance Information Report does not constitute a safety related issue because there is no evidence that improper installation is actually taking place in the field (as evidenced by the lack of significant complaints from consumers, advocates, health care specialists or anyone else). DJG also states that the preponderance of correct rear-facing installation diagrams and instructions appears to outweigh the potential for improper installation as a result of the ambiguous arrows on the rear-facing installation labels on the base. DJG also indicated that there appears to be a low probability that improper installation is even possible in the vast majority of vehicles surveyed, which represent a cross section of vehicles in the field.

In summation, DJG asserts that the described noncompliance of its child restraints is inconsequential to motor vehicle safety, and that its petition to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA'S ANALYSIS OF DJG'S REASONING: To answer this petition, the pertinent regulations in question are:

FMVSS No. 213 S5.5.2 (1) requires:

(1) An installation diagram showing the child restraint system installed in:

- (1) A seating position equipped with a continuous-loop lap/shoulder belt;
- (2) A seating position equipped with only a lap belt, as specified in the manufacturer's instructions; and
- (3) A seating position equipped with a child restraint anchorage system.

The purpose for S5.5.2 (1) is to provide consumers with an installation diagram depicting the proper installation of a child restraint using the attachment methods (lap/shoulder belt, lap belt only, and anchorage system) available in vehicles.

FMVSS No. 213 S5.5 states:

Labeling. Any labels or written instructions provided in addition to those required by this section shall not obscure or confuse the meaning of the required information or be otherwise misleading to the consumer...

The purpose of S5.5 is to prevent additional information from confusing or misleading the consumer, resulting in misuse of the child restraint and/or non-use.

The only complaint received by DJG was submitted by a Child Passenger Safety Technician, on behalf of a consumer, over concerns that the labels were put on incorrectly and the arrows pointed to the solid plastic and not the rear-facing belt path.

DJG conducted a survey to demonstrate any effects the noncompliance may have on seat installation. DJG installed a Complete Air LX model, which represents the Alpha Elite model as well, in 26 vehicles in rear-facing mode using both the vehicle belts and lower anchorage belts. According to DJG, the 26 vehicles represented a cross-section of vehicles on the road. The vehicle belts and lower anchorage belts were routed through the forward-facing belt path of the Complete Air LX. DJG reported that in none of the 26 vehicles was it possible to route the lower anchorage belts through the forward-facing belt path and secure the lower anchorages to the vehicle anchor bars due to the lower anchorage belts being too short to allow this improper installation. In 5 of the 26 evaluated vehicles, the vehicle belt allowed for this improper installation with a coupling of the vehicle belt and vehicle buckle.

In reaching our decision, NHTSA carefully reviewed the subject petition and CU's comments. NHTSA does not agree with DJG that the preponderance of correct rear-facing installation diagrams and instructions appears to outweigh the potential for improper installation resulting from the misplaced arrows. NHTSA believes that consumers will likely look first at diagrams on the child restraint for guidance on correct installation, and not from written instructions, particularly for re-installations, i.e., removing the restraint from one vehicle and

putting it in another vehicle. The pointing arrows on the label will likely be the first place a consumer will look for guidance on choosing the proper belt routing path. S5.5 of FMVSS No. 213 specifically addresses that additional information may not confuse or mislead the user. If a user is reading the labels for guidance on how to properly install the restraint, the directional arrows pointed in the wrong direction clearly may present a confusing picture that could lead to improper installation and/or nonuse.

NHTSA believes that the lone complaint reported by DJG does not necessarily mean that consumers are installing the restraint properly. Users may be installing the restraint improperly without realizing it, and these cases therefore would not be reported.

NHTSA reviewed its Vehicle Owner Questionnaire (VOQ) data and uncovered one VOQ, dated May 2011, which highlighted installation problems with the same child restraint device when the owner attempted to follow instructions provided on the attached label.

NHTSA understands that the results of DJG's survey of vehicles shows a low percentage of vehicles surveyed that allow an improper installation because of the relative short length webbing for either the lower anchorage belt or the vehicle seat belt. However we believe that the survey is limited by the

relatively small number of vehicles surveyed compared to the entire vehicle fleet and the use of only two DJG models.

NHTSA believes that the misplaced labels result in a confusion of the meaning of the required information (diagram showing correct installation in the rear-facing configuration) and thus the potential for mis-installation or perhaps non-use of the restraint.

NHTSA'S RESPONSE TO CONSUMER UNION COMMENTS: In its comment to the docket, CU disagrees with DJG's assessment that the noncompliance is inconsequential to safety because the incorrectly installed diagrams will lead to confusion by the consumer and increase the likelihood that the restraints will be installed improperly or not at all.

CU reported that it tested an Alpha Omega Elite model which is one of the DJG models included in this petition. Based on CU observations, the rear-facing belt path on the Alpha Omega Elite is not visible from the top or the side of the restraint. Therefore without a label clearly indicating its location, the rear-facing belt path could be hidden from the consumer. In this case, with the affected label pointing toward the forward-facing belt path, a consumer may assume that the rear-facing and forward-facing belt paths are the same, leading to an improper installation of the restraint.

NHTSA DECISION: In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, DJG's petition is hereby denied, and the petitioner must notify owners, purchasers and dealers pursuant to 49 U.S.C. 30118 and provide a remedy in accordance with 49 U.S.C. 30120.

AUTHORITY: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

ISSUED ON: August 22, 2013

Nancy Lummen Lewis
Associate Administrator
for Enforcement

BILLING CODE: 4910-59-P

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